THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6043 of 2006

27.3.2006

Between:

Sabavat Tulichya, S/o.Late Amirya

And otehrs

… Petitioners

AND

The Mandal Revenue Officer,

Amangal Mandal, Mahabubnagar District.

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6043 of 2006

ORDER:

The petitioners claim to be legal heirs of protected tenant, namely, Amirya, in respect of land admeasuring Acs.17.25 guntas in survey No.8, situated at Karkalpahad Village of Amangal Mandal in Mahabubnagar District. Amirya died some time in 1990s, leaving behind him his brothers, namely, Hariya, Dhanku and Kadiya (petitioner No.8 herein) apart from his own sons. The petitioners 3 to 7 herein are sons of Hariya and petitioner No.2 is son of Dhanku. All the petitioners filed an application on 13.2.2006 before the respondent, purportedly under Section 40 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (the Act, for brevity), to make necessary changes in the register of protected tenants showing the petitioners as occupants of the land, in vain. Therefore, the present writ petition is filed.

After hearing learned Counsel for the petitioners and learned Assistant Government Pleader for Revenue (General), this Court is convinced that the application filed by the petitioners under Section 40 of the Act is misconceived. Section 40 of the Act only declares that protected tenancy is heritable and that the legal heirs of protected tenant shall be entitled to hold the tenancy, on the same terms and conditions, on which such protected tenant was holding the land at the time of his death. The same does not confer any power on the Tahsildar/Mandal Revenue Officer to decide disputed question of succession. The attention of this Court is drawn to the A.P. (Telangana Area) Tenancy and Agricultural Land Rules, 1950 (the Rules, for

brevity). These Rules contain the procedure for preparation of record on tenancies of agricultural land, enquiries connected thereto and recording of the rights of the persons, who acquire the rights in the agricultural land. Rule 14 of the Rules is relevant, which reads as under.

> **14. Acquisition of rights to be reported:**- (i) Any person who after the preparation of the Preliminary or Provisional Record of Tenancies acquires any interest or right inland as a holder or a tenant in any village by succession, survivorship, inheritance, partition, purchase, gift or otherwise, shall report his acquisition of such an interest or right, orally or in writing to the Patwari of the village in which such land is situated or in writing to the Tahsildar of the area within one month from the date of such acquisition.
>
> Provided that if the person acquiring such interest or right in land is a minor or otherwise disqualified, his guardian having charge of his property shall make the report to the Patwari or the Tahsildar.
>
> (ii) The patwari shall at once give a written acknowledgement of the report made to him under sub-rule (i) in Form II appended herewith to the person making it.
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> (iii) The patwari shall immediately forward every report made to him under sub-rule (i) to the Tahsildar of the area.
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> (iv) If the patwari has reason to believe that an acquisition of any interest or right in land of description referred to in sub-rule (i) has taken place, of which a report has not been made to him under that sub-rule, he shall immediately report such an acquisition to the Tahsildar of the area.

Any person who acquired interest in the land governed by the provisions of the Act either by way of succession, survivorship, inheritance, partition, purchase, gift or otherwise, shall report such acquisition of the right to the Tahsildar. Under Rule 15 of the Rules, Tahsildar is empowered to enter in the register of mutation all cases of acquisition of interest or right in the land, and if any person is aggrieved by such mutation, an appeal would lie to the Revenue Divisional Officer. Therefore, the Mandal Revenue Officer may treat the application made by the petitioners as one under Rules 14 and 15 of the Rules and after getting necessary enquiry made by the Panchayat Secretary, take necessary action in the matter within a period of eight (8) weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is disposed of. No costs.

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(**V.V.S.RAO,J**)

March 27, 2006.

NOTE:

Issue order copy in

One week.

(By order)

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